

Ladies and gentlemen, if there was ever a war where it was important to know what the enemy was up to and hit them before they hit us, it is this war. They could care less about losing their lives. The only way we will be safe is to gather intelligence, and we cannot gather intelligence, in my view, by locking down America to "Dragnet" standards. This is not a TV show. This is a real-world event that changes as I speak.

To Senator LEVIN, to Senator AYOTTE, and to all those who have tried to create a compromise to enjoy bipartisan support—to the administration—thank you all. To the critics, some of your criticism has been unfounded. But you have the right to be a critic. You live in the State called "Live Free or Die."

Let me remind everybody, being a critic and being able to speak your mind sometimes means people have to die.

What I am—

The PRESIDING OFFICER. The time for the Senator from New Hampshire has expired.

Mr. GRAHAM. Madam President, could I ask for 30 seconds?

The PRESIDING OFFICER. Is there any objection?

Mr. LEVIN. Madam President, reserving the right to object—and I, of course, will not—how much time is left before our vote?

The PRESIDING OFFICER. One minute.

Mr. GRAHAM. I will do this in 15 seconds.

Mr. LEVIN. If the Senator will save me 30 seconds, I would appreciate it.

Mr. GRAHAM. Absolutely.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM. This idea of civil liberties and the American way of life—if we do not fight for it, we are going to lose it. We are under siege and we are under attack. So let's fight back within our values. This bill allows us to fight back, and I am very proud of the product.

I thank Senator LEVIN for being such a good leader for the Nation at a time when we need good leaders.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Madam President, let me first thank Senators GRAHAM and AYOTTE for their contributions this afternoon and long before this afternoon on this subject.

The best answer to some of the criticism we have heard this afternoon—the FBI has been successful. Why change it?—read the law, read the conference report.

Nothing in this section shall be construed to affect the existing criminal enforcement and national security authorities of the Federal Bureau of Investigation. . . .

It is flatout explicit in the law.

Something else we have heard: We are doing something for the first time—long-term custody for American citizens. Read the conference report:

Nothing in this section shall be construed to affect existing law or authorities

relating to the detention of United States citizens. . . .

I urge people to read our conference reports read the Senate bill, before they accept some of the arguments which have been made against this conference report.

Madam President, I ask unanimous consent that the statement of the Press Secretary for the President that was issued yesterday on behalf of the President be printed in the RECORD, including this line:

[We have concluded that the language does not—

The language in the conference report—challenge or constrain the President's ability to collect telling intelligence, incapacitate dangerous terrorists, and protect the American people—

And the key words for many people—and the President's senior advisors will not recommend a veto.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT FROM THE PRESS SECRETARY ON THE NDAA BILL

We have been clear that "any bill that challenges or constrains the President's critical authorities to collect intelligence, incapacitate dangerous terrorists, and protect the Nation would prompt the President's senior advisers to recommend a veto." After intensive engagement by senior administration officials and the President himself, the Administration has succeeded in prompting the authors of the detainee provisions to make several important changes, including the removal of problematic provisions. While we remain concerned about the uncertainty that this law will create for our counterterrorism professionals, the most recent changes give the President additional discretion in determining how the law will be implemented, consistent with our values and the rule of law, which are at the heart of our country's strength. This legislation authorizes critical funding for military personnel overseas, and its passage sends an important signal that Congress supports our efforts as we end the war in Iraq and transition to Afghanistan lead while ensuring that our military can meet the challenges of the 21st century.

As a result of these changes, we have concluded that the language does not challenge or constrain the President's ability to collect intelligence, incapacitate dangerous terrorists, and protect the American people, and the President's senior advisors will not recommend a veto. However, if in the process of implementing this law we determine that it will negatively impact our counterterrorism professionals and undercut our commitment to the rule of law, we expect that the authors of these provisions will work quickly and tirelessly to correct these problems.

Mr. LEVIN. Again, I want to thank all of my colleagues who participated in this debate.

I yield the floor.

The PRESIDING OFFICER (Ms. KLOBUCHAR.) The question is on agreeing to the conference report.

Mr. LEVIN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The clerk will call the roll.

The bill clerk called the roll.

Mr. KYL. The following Senator is necessarily absent: the Senator from Kansas (Mr. MORAN).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 86, nays 13, as follows:

[Rollcall Vote No. 230 Leg.]

YEAS—86

| | | |
|------------|--------------|-------------|
| Akaka | Graham | Mikulski |
| Alexander | Grassley | Murkowski |
| Ayotte | Hagan | Murray |
| Barrasso | Hatch | Nelson (NE) |
| Baucus | Heller | Nelson (FL) |
| Begich | Hoeven | Portman |
| Bennet | Hutchison | Pryor |
| Bingaman | Inhofe | Reed |
| Blumenthal | Inouye | Reid |
| Blunt | Isakson | Roberts |
| Boozman | Johanns | Rockefeller |
| Boxer | Johnson (SD) | Rubio |
| Brown (MA) | Johnson (WI) | Schumer |
| Brown (OH) | Kerry | Sessions |
| Burr | Kirk | Shaheen |
| Cantwell | Klobuchar | Shelby |
| Carper | Kohl | Snowe |
| Casey | Kyl | Stabenow |
| Chambliss | Landrieu | Tester |
| Coats | Lautenberg | Thune |
| Cochran | Leahy | Toomey |
| Collins | Levin | Udall (CO) |
| Conrad | Lieberman | Udall (NM) |
| Coons | Lugar | Vitter |
| Corker | Manchin | Warner |
| Cornyn | McCain | Webb |
| Enzi | McCaskill | Whitehouse |
| Feinstein | McConnell | Wicker |
| Gillibrand | Menendez | |

NAYS—13

| | | |
|--------|---------|---------|
| Cardin | Franken | Risch |
| Coburn | Harkin | Sanders |
| Crapo | Lee | Wyden |
| DeMint | Merkley | |
| Durbin | Paul | |

NOT VOTING—1

Moran

The conference report was agreed to. Mr. LEVIN. Madam President, I move to reconsider the vote by which the conference report was agreed to.

Mr. MENENDEZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CORRECTING THE ENROLLMENT OF H.R. 1540

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of H. Con. Res. 92, which the clerk will report.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 92) directing the Clerk of the House of Representatives to correct the enrollment of the bill H.R. 1540.

The PRESIDING OFFICER. Under the previous order, the concurrent resolution is agreed to, and the motion to reconsider is considered made and laid upon the table.

EXECUTIVE SESSION

NOMINATION OF MORGAN CHRISTEN TO BE UNITED STATES CIRCUIT JUDGE FOR THE NINTH CIRCUIT—Continued

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to resume